

AMENDED IN SENATE MARCH 23, 2010

SENATE BILL

No. 1456

Introduced by Senator Simitian

February 19, 2010

~~An act to add Section 21081.8 to the Public Resources Code, relating~~
An act to amend Section 21167.8 of the Public Resources Code, relating
to environmental quality, and declaring the urgency thereof, to take
effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1456, as amended, Simitian. Environmental quality: ~~mitigation~~
~~measures; mediation.~~

~~(1) The California Environmental Quality Act declares it to be the~~
~~policy of the state that a public agency should not approve a project~~
~~that may have a significant effect on the environment if there are feasible~~
~~alternatives or feasible mitigation measures available that would~~
~~substantially lessen the significant environmental effects of the project.~~

~~This bill would require the Secretary of the Natural Resources Agency,~~
~~on or before July 1, 2011, and annually thereafter, to report on the types~~
~~and effectiveness of a representative sample of mitigation measures~~
~~adopted by state and local agencies.~~

(1) The California Environmental Quality Act (CEQA) imposes
requirements for an attempted settlement upon a public agency that
has been served a petition or complaint for specified violations of CEQA.
CEQA provides that the settlement meeting is intended to be conducted
concurrently with any judicial proceedings.

Existing law also provides that an action brought in the superior
court relating to certain subjects, including an act or decision of a

public agency made pursuant to CEQA, may be subject to a mediation proceeding.

This bill would provide that mediation proceeding also is intended to be conducted concurrently with any judicial proceedings.

(2) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 21081.8 is added to the Public Resources~~
2 ~~Code, to read:~~

3 ~~21081.8. On or before July 1, 2011, and on or before July 1 of~~
4 ~~each year thereafter, the Secretary of the Natural Resources Agency~~
5 ~~shall report on the types and effectiveness of a representative~~
6 ~~sample of mitigation measures adopted by state and local agencies.~~
7 ~~The secretary may consider information from mitigation reporting~~
8 ~~and monitoring programs adopted pursuant to Section 21081.6.~~

9 ~~SECTION 1. Section 21167.8 of the Public Resources Code is~~
10 ~~amended to read:~~

11 21167.8. (a) Not later than 20 days from the date of service
12 upon a public agency of a petition or complaint brought pursuant
13 to Section 21167, the public agency shall file with the court a
14 notice setting forth the time and place at which all parties shall
15 meet and attempt to settle the litigation. The meeting shall be
16 scheduled and held not later than 45 days from the date of service
17 of the petition or complaint upon the public agency. The notice of
18 the settlement meeting shall be served by mail upon the counsel
19 for each party. If the public agency does not know the identity of
20 counsel for ~~any~~ a party, the notice shall be served by mail upon
21 the party for whom counsel is not known.

22 (b) At the time and place specified in the notice filed with the
23 court, the parties shall meet and confer regarding anticipated issues
24 to be raised in the litigation and shall attempt in good faith to settle
25 the litigation and the dispute ~~which~~ *that* forms the basis of the
26 litigation. The settlement meeting discussions shall be
27 comprehensive in nature and shall focus on the legal issues raised
28 by the parties concerning the project that is the subject of the
29 litigation.

1 (c) The settlement meeting may be continued from time to time
2 without postponing or otherwise delaying other applicable time
3 limits in the litigation. The settlement meeting, *or a mediation*
4 *proceeding that is conducted pursuant to Chapter 9.3 (commencing*
5 *with Section 66030) of Division 1 of Title 7 of the Government*
6 *Code*, is intended to be conducted concurrently with any judicial
7 proceedings.

8 (d) If the litigation is not settled, the court, in its discretion, may,
9 or at the request of ~~any~~ a party, shall, schedule a further settlement
10 conference before a judge of the superior court. If the petition or
11 complaint is later heard on its merits, the judge hearing the matter
12 shall not be the same judge conducting the settlement conference,
13 except in counties that have only one judge of the superior court.

14 (e) The failure of ~~any~~ a party, who was notified pursuant to
15 subdivision (a), to participate in the litigation settlement process,
16 without good cause, may result in an imposition of sanctions by
17 the court.

18 (f) Not later than 30 days from the date that notice of
19 certification of the record of proceedings was filed and served in
20 accordance with Section 21167.6, the petitioner or plaintiff shall
21 file and serve on all other parties a statement of issues ~~which that~~
22 the petitioner or plaintiff intends to raise in ~~any~~ a brief or at ~~any~~
23 a hearing or trial. Not later than 10 days from the date on which
24 the respondent or real party in interest has been served with the
25 statement of issues from the petitioner or plaintiff, each respondent
26 and real party in interest shall file and serve on all other parties a
27 statement of issues which that party intends to raise in ~~any~~ a brief
28 or at ~~any~~ a hearing or trial.

29 SEC. 2. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety within
31 the meaning of Article IV of the Constitution and shall go into
32 immediate effect. The facts constituting the necessity are:

33 In order to protect the environment and public health at the
34 earliest possible time, it is necessary for this act to take effect
35 immediately.